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January 26, 2021

**VIA ECF AND ELECTRONIC MAIL** (nynd\_bks\_ecf\_notices@nynd.uscourts.gov)

The Honorable Brenda K. Sannes, U.S.D.J.  
U.S. District Court, Northern District of New York  
Federal Building and U.S. Courthouse  
Post Office Box 7336  
Syracuse, New York 13261-7336

**Re: Ernestine Welch v. BioReference Laboratories, Inc.**  
**Civil Action No. 1:19-cv-00846 (BKS)(DJS)**

Dear Judge Sannes:

This firm represents defendant BioReference Laboratories, Inc. (“BioReference”) in the above-referenced case. Kindly accept this letter as a Motion to Seal pursuant to Local Civil Rule 5.3.

By way of background, in an *ex parte* letter to the Court dated January 4, 2021, plaintiff Ernestine Welch objected to BioReference taking withholding from her settlement check. (ECF No. 34). As directed by the Court (ECF No. 36), BioReference is filing opposition to Ms. Welch’s objection. BioReference seeks leave to file under seal: (1) portions of its opposition; and (2) two settlement documents accompanying its opposition.

In an Agreement Memorializing Confidentiality and Non-Disparagement Preferences (the “Confidentiality Agreement”), the parties agreed, pursuant to Section 5003-B of the New York Civil Practice Law and Rules and Section 5-336 of the New York State General Obligations Law, to keep the facts and circumstances underlying this lawsuit confidential. Therefore, BioReference seeks leave to redact from its public filing portions of its opposition discussing the facts and circumstances underlying the lawsuit.

In a Settlement Agreement and General Release (the “Settlement Agreement”), plaintiff agreed to maintain confidentiality regarding Section 2 of the Settlement Agreement, which addresses her settlement payment. Therefore, BioReference seeks leave to redact the portions of its opposition disclosing the substance of Section 2.

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Additionally, BioReference intends to submit, along with its opposition, copies of the Confidentiality Agreement and Settlement Agreement. BioReference respectfully request leave to file these confidential documents under seal.

Plaintiff's counsel does not object to this request.

Accompanying this letter is a proposed form of Order. In addition, pursuant to Local Civil Rule 5.3(a), BioReference will submit to Your Honor the Settlement Agreement and Confidentiality Agreement and an unredacted version of BioReference's opposition to plaintiff's objection. BioReference will submit these items for *in camera* consideration as an attachment (in PDF format) to an e-mail sent to Your Honor's e-mail address listed in Section 8.2 of General Order 22. We will also serve these items on plaintiff's counsel

Thank you for Your Honor's attention to this matter.

Respectfully submitted,



WILLIAM R. HORWITZ

Enclosures

cc: Counsel of record (via ECF)